

Book XI.
Title VI.

Concerning Shipwrecks.
(De naufragiis.)

11.6.1. Emperor Antoninus to Maximus.

If as a result of a shipwreck a ship is at any time thrown on to the shore, or touches land anywhere, it shall remain the property of the owner, and the fisc shall not interfere with it. For what right has the fisc to interfere in another's calamity, so as to gain an advantage from so sad an occasion?

11.6.2. Emperors Valentinian, Valens and Gratian to Modestus, Praetorian Prefect.

If any public seaman affirms that he has sustained a shipwreck he shall immediately go before the governor of the province, before whom the matter may be brought up, and prove the fact before him and by witnesses. A report shall also be sent to the sublime prefecture, so that the proper order may be made within a year after the facts are made known. But if the fixed period of a year has perchance elapsed through negligence, vain and late claims shall not thereafter be permitted.

Given at Berytus June 5 (372).

C. Th. 13.9.1.

Note.

The law, as clearly appears from C. Th. 13.9.1 was enacted in reference to shipwrecks sustained by public seamen in the service of the state. The law was changed to some extent by the compilers in the Justinian Code, and the purpose above mentioned is not so clear. If such seaman had a shipwreck, they were required to report it and show the fact by witnesses. A report was also required to be made to the praetorian prefect who had supervision of the annona, the tax in kind. If the shipwreck was actually sustained as claimed by the seaman, he was not held responsible for the cargo of goods. If he did not make his claim within a year, he could not get any relief, but was held responsible for the cargo.

All the laws in this title, except law 1, appear in C. Th. 13.9, and Gothofredus says that all the laws in that title were enacted in reference to public seamen in the service of the state, and not in reference to private seamen.

11.6.3. Emperors Gratian, Valentinian and Theodosius to the African Shipmasters, saluting:

Whenever a ship is overwhelmed and submerged by the waves, and an investigation is made before the proper judge, two or three sailors shall be examined under torture, but the rest shall not be subjected thereto. For what is it that a skillful examiner could not in abundance discover by examining men within the above number (of three). 1. Careful inquiry must be made of the shipmasters who have full knowledge. If he is absent by reason of death, the inquiry shall be extended to others. 2. If, forsooth, the violence of the tempest has overwhelmed all, then in order that the truth may not remain concealed, the children of the sailors or shipmasters, brought into court, shall be asked as to the death of those who are contended by the ship owner (public seamen) to

have perished in the shipwreck. 3. The time of shipping shall remain as heretofore, between the first day of April to the first day of October.
Given at Treves February 6 (380).

Note.

As to time of shipping see C. 11.2.6 and note.

11.6.4. Emperors Valentinian, Theodosius and Arcadius to Tatianus, Praetorian Prefect.

The loss of property once brought into the treasury by the tax payers, but subsequently shipwrecked, shall not be shared with us by land owners, senators or private persons, and no part of the risk shall fall on them.¹

C. Th. 13. 9. 4.

11.6.5. Emperors Honorius and Theodosius to the Ship Owners of Africa.

We decree that inquiries as to submerged ships shall be held with the curtains raised.² And if any one is found to have received anything³ in connection with such matters the judge before whom that is shown to be true, shall, upon complaint of those who have been despoiled, have power to fine, remove from office or banish such persons, depending on their condition in life. 1. If judges who have to examine such causes neglect, however, upon the filing of a petition or upon informal request (planaria interpellatione) to hear them within two year, and that time has elapsed, the damage shall fall upon the examining judge to the extent that - the public seaman being exonerated on account of the negligence of the judge - he shall pay half of the loss which was sought to be proved before him within the legal time, and the other half shall be paid by his official staff.

Given at Ravenna March 17 (412).

C. Th. 13.9.6.

11.6.6. The same Emperors to Anthemius, Praetorian Prefect.

If in an investigation of shipwrecks made in the customary manner, it appears a certain amount of grain is said to have been lost, it shall not be entered by your office as received, but this loss shall fall on the whole corporation of public seamen in proportion of the burden resting upon them.⁴

Given January 19 (409).

C. Th. 13.5.32.

¹ [Blume] The loss fell on the guild to which the public seaman belonged. Law 6 of this title.

² [Blume] As to the meaning of this, see note to C. 7.45.6.

³ [Blume] namely fees.

⁴ [Blume] See law 4 of this title.